

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rebecca Ho	Team: Squad #6	CCRB Case #: 201603367	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 02/29/2016 6:00 AM	Location of Incident: [REDACTED]	Precinct: 43	18 Mo. SOL 8/29/2017	EO SOL 8/29/2017	
Date/Time CV Reported Tue, 04/19/2016 3:10 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 04/19/2016 3:10 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Anthony Galasso	1670	[REDACTED]	WARRSEC
2. DT3 Harish Mansharamani	4425	[REDACTED]	WARRSEC
3. DT3 Ching Nieh	00027	[REDACTED]	WARRSEC
4. POM Daniel Vargas	06644	[REDACTED]	PSA 8
5. SGT Sean Noce	3309	[REDACTED]	PSA 8
6. DT3 Robert Favara	6717	[REDACTED]	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Kenson Phillips	18768	[REDACTED]	PSA 2
2. POM Isaac Souchak	20508	[REDACTED]	PSA 2
3. DT3 Simon Laine	01188	[REDACTED]	WARRSEC
4. DI Vanessa Kight	00000	[REDACTED]	PSA 8
5. POM Michael Scire	24351	[REDACTED]	WARRSEC
6. SDS Waverly Fredericks	03165	[REDACTED]	WARRSEC
7. POM Eric Healy	11799	[REDACTED]	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Anthony Galasso	Abuse: On February 29, 2016, Detective Anthony Galasso entered and searched [REDACTED] in the Bronx.	[REDACTED]
B.DT3 Harish Mansharamani	Abuse: On March 3, 2016, Detective Harish Mansharamani entered and searched [REDACTED] in the Bronx.	[REDACTED]
C.DT3 Harish Mansharamani	Abuse: On March 3, 2016, Detective Harish Mansharamani threatened to report [REDACTED] to [REDACTED]	[REDACTED]
D.SGT Sean Noce	Abuse: On April 15, 2016, Sergeant Sean Noce detained [REDACTED]	[REDACTED]
E.POM Daniel Vargas	Abuse: On April 15, 2016, Police Officer Daniel Vargas detained [REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
F.DT3 Ching Nieh	Abuse: On April 20, 2016, Detective Ching Nieh entered # [REDACTED] in the Bronx.	[REDACTED]
G.DT3 Ching Nieh	Abuse: On April 20, 2016, Detective Ching Nieh detained [REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Case Summary

On April 19, 2016, [REDACTED] filed the following complaints with the CCRB via telephone.

On February 29, 2016, at 6:00 a.m., Det. Anthony Galasso of Bronx Warrant Squad, accompanied by his partners Sgt. Waverly Fredericks and PO Eric Healy, arrived at [REDACTED] home, [REDACTED] in the Bronx in regards to active I-card [REDACTED] for [REDACTED] son [REDACTED] (**Allegation A**) [NYPD 05; NYPD 10]. [REDACTED] voluntarily permitted officers to enter the apartment to conduct a sweep.

On March 3, 2016, at 5:30 a.m., Det. Harish Mansharamani of Bronx Warrant Squad, accompanied by his partners Det. Simon Laine and Det. Robert Favara, arrived at [REDACTED] home in regards to active I-cards [REDACTED] and [REDACTED] for [REDACTED] (**Allegation B**) [NYPD 10; NYPD 11]. [REDACTED] voluntarily permitted officers to enter the apartment to conduct a sweep. Also home at the time was [REDACTED] other son [REDACTED] who was asleep in his bedroom. [REDACTED] alleged Det. Mansharamani threatened to report her to NYCHA (**Allegation C**).

On May 2, 2016, [REDACTED] filed the following complaints in person at the CCRB.

On April 15, 2016, [REDACTED] was out running errands when she was informed [REDACTED] was stopped by Sgt. Sean Noce and PO Daniel Vargas of PSA 8 in front of [REDACTED] in the Bronx in regards to UF-61 [REDACTED] (**Allegations D and E**) [NYPD 14]. [REDACTED] remained at the scene until they determined the victim had not positively identified any suspect. PO Vargas voided arrest [REDACTED] for this incident.

On April 20, 2016, Det. Ching Nieh of Brooklyn Warrant Squad, accompanied by his partner PO Michael Scire arrived at [REDACTED] home in regards to open warrant [REDACTED] for [REDACTED] (**Allegation F**) [NYPD 18]. Also home at the time was [REDACTED] [REDACTED] voluntarily permitted officers to enter the apartment. Det. Nieh and PO Scire escorted [REDACTED] to Bronx Criminal Court in regards to the warrant, and [REDACTED] was released on his own recognizance (**Allegation G**).

§ 87(4-b), § 87(2)(g)

Mediation, Civil and Criminal Conviction Histories

- This case is not mediation suitable because officers were attempting to arrest [REDACTED] based on active warrants and I-cards.
- [REDACTED] has not filed a Notice of Claim with the City of New York as of July 12, 2016 with regard to the incident.
- As of July 5, 2016, Office of Court Administration records reveal no criminal convictions for [REDACTED] or [REDACTED]
- § 87(2)(b)

Civilian and Officer CCRB Histories

- [REDACTED]
[REDACTED]

- [REDACTED]
- Det. Anthony Galasso has been a member of the service for 10 years and there are no substantiated CCRB allegations against him.
- Det. Harish Mansharamani has been a member of the service for 10 years and there is one substantiated CCRB allegations against him.
 - In case 201408230, Det. Mansharamani received no disciplinary action for a substantiated entry/search allegation.
- Sgt. Sean Noce has been a member of the service for 13 years and there are no substantiated CCRB allegations against him.
- PO Daniel Vargas has been a member of the service for 1 year and this is the first CCRB allegation against him.
- Det. Ching Nieh has been a member of the service for 12 years and there are no substantiated CCRB allegations against him.

§ 87(2)(g) [REDACTED]

[REDACTED]

Finding and Recommendations

Explanation of Subject Officer Identification

- In filing her complaint with the CCRB, [REDACTED] alleged she interacted with Det. Mansharamani on February 29, 2016. She further alleged on March 3, 2016, she interacted with Det. Galasso, who threatened her with arrest. But in providing her formal testimony, [REDACTED] alleged on February 29, 2016, she interacted with Det. Mansharamani, and clarified it was not Det. Galasso, but Det. Mansharamani who threatened to report her to NYCHA. [REDACTED] clarified she interacted with Det. Galasso on March 3, 2016, but made no further allegations for that date. Based on [REDACTED] statements and police documents noting Det. Mansharamani visited [REDACTED] on March 3, 2016, **Allegation C** is pleaded against Det. Mansharamani.

§ 87(2)(g) [REDACTED]

[REDACTED]

Recommendations

- **Allegation A: Abuse of Authority – On February 29, 2016, Detective Anthony Galasso entered and searched [REDACTED] in the Bronx.**
- **Allegation B: Abuse of Authority – On March 3, 2016, Detective Harish Mansharamani entered and searched [REDACTED] in the Bronx.**

[REDACTED] alleged that on February 29, 2016, Det. Galasso, accompanied by Sgt. Waverly Fredericks, and PO Eric Healy of Bronx Warrant Squad knocked on her apartment door and when she answered it, informed her they had a warrant for [REDACTED] [BR 01]. [REDACTED] further alleged that on March 3, 2016, Det. Mansharamani, accompanied by Det. Simon Laine and Det. Favara of Bronx Warrant Squad knocked on her apartment door and when she answered it, informed her they had a warrant for [REDACTED]. Both times, [REDACTED] stepped aside to allow the officers to walk through the doorway and into the apartment. [REDACTED] did not ask to see the warrant on both occasions and the officers did not show it to her. During the two incidents, the officers entered each of the four bedrooms of the apartment to check the closets and beds in each bedroom; they did not search inside any cabinets. On February 29, 2016, during the sweep of the apartment, an officer woke [REDACTED] who was sleeping in one of the bedroom.

Det. Mansharamani knew that Det. Galasso reported negative results from his visit on February 29, 2016 to [REDACTED] in the Bronx with an open I-card for [REDACTED] [BR 03]. On March 3, 2016, Det. Mansharamani went to the apartment with the I-Card no. [REDACTED] and a SAP arrest warrant for [REDACTED] for violating park rules and regulations. When Det. Mansharamani knocked on the front door and [REDACTED] opened it, he told [REDACTED] that officers were still looking for her son. [REDACTED] replied that [REDACTED] was not home. Det. Mansharamani asked [REDACTED] if the officers could come into her apartment, and she stepped aside and waived them into the apartment. Det. Mansharamani asked [REDACTED] if there was anyone home, and she replied that her other son was home sleeping in the rear bedroom. Det. Mansharamani asked [REDACTED] if she could show the officers around the apartment, and so she showed them each room of the apartment. Det. Mansharamani and his partners looked into each bedroom, and opened any space large enough to hide a person, such as any closet. Det. Mansharamani also looked into the bathroom, kitchen, and living room, but did not find [REDACTED]. Det. Mansharamani also showed [REDACTED] the arrest warrant for [REDACTED] and pointed out to her that the warrant listed her home address as the location to find [REDACTED].

On February 29, 2016, Det. Mansharamani, the investigating officer for complaint no. [REDACTED] made a complaint follow-up entry noting the following [NYPD 05]: On February 29, 2016, at approximately 6:00 a.m., the investigating officer's team members visited [REDACTED], and confirmed [REDACTED] was not home. The investigating officers' team members spoke with [REDACTED] who stated she had not seen [REDACTED] in a few days.

I-card no. [REDACTED] was opened in conjunction with complaint no. [REDACTED] [NYPD 10]. Det. Galasso's memo book for February 29, 2016 notes negative results during a [REDACTED] at 6:00 a.m. in regards to the aforementioned I-card [NYPD 03].

On March 3, 2016, Det. Mansharamani, the investigating officer for complaint [REDACTED] made a complaint follow-up entry noting the following [NYPD 10]: On March 3, 2016, at approximately 6:00 a.m., Det. Mansharamani visited [REDACTED] and did not find [REDACTED]. Det. Mansharamani spoke with [REDACTED] who showed him around

the apartment, and he confirmed [REDACTED] was not home. [REDACTED] stated she had not seen her son in about a week. Det. Mansharamani left his business card with [REDACTED]

I-card no. [REDACTED] was opened in conjunction with complaint no. [REDACTED] [NYPD 11]. Det. Mansharamani's memo book for February 29, 2016 notes he was assigned to administrative duty [NYPD 08]. On March 3, 2016, Det. Mansharamani's memo book for March 3, 2016 notes negative results during a visit to [REDACTED] at 5:30 a.m. in regards to the aforementioned I-card [BR 03].

According to People v. Gonzalez, 347 N.E.2d 575, 580 (1976), police may lawfully conduct a warrantless search when they have obtained the voluntary consent of a party who possesses the requisite degree of authority and control over the premises or personal property in question [BR 09].

§ 87(2)(g)

• **Allegation C: Abuse of Authority – On March 3, 2016, Detective Harish Mansharamani threatened to report [REDACTED] to NYCHA.**

[REDACTED] alleged when Det. Mansharamani was in her apartment, he told her it was a felony to receive public assistance on behalf of [REDACTED] [BR 01]. Det. Mansharamani threatened to report [REDACTED] to NYCHA for conducting illegal activities in the apartment, including running and having “a gang house.”

As per Det. Mansharamani, Det. Favara, and Det. Laine, they were unaware if [REDACTED] receives public assistance [BR 03; BR 14; BR 16]. Det. Mansharamani did not remember if he mentioned anything to [REDACTED] about her receiving public assistance, and did not recall if he threatened to report her to NYCHA. Det. Favara and Det. Laine each stated they did not hear Det. Mansharamani made any threats to report [REDACTED] to NYCHA.

§ 87(2)(g)

• **Allegation D: Abuse of Authority – On April 15, 2016, Sergeant Sean Noce detained [REDACTED]**

• **Allegation E: Abuse of Authority – On April 15, 2016, Police Officer Daniel Vargas detained [REDACTED]**

[REDACTED] stated she was inside a store along [REDACTED] when a neighborhood friend known as [REDACTED] entered the store and informed her that the police had stopped her son [BR 01]. [REDACTED] exited the store and walked to where Sgt. Noce and PO Vargas of PSA 8 had stopped and handcuffed [REDACTED] saw the names and shield numbers of the

officers and wrote the information down. As [REDACTED] did this, her daughter [REDACTED] recorded a video of [REDACTED] in handcuffs. The officers stated they had a warrant for [REDACTED] and one of them stepped away to run [REDACTED] name while on scene. During that time, [REDACTED] complained his handcuffs were on too tight and an officer loosened them for him. Once the officers confirmed that [REDACTED] did not have any open warrants, they released him. [REDACTED] estimated the incident lasted about two hours.

Sgt. Noce explained that while he was conducting roll call at the PSA 8 stationhouse at the start of his tour, Deputy Inspector Vanessa Kight announced that [REDACTED] was wanted for a robbery earlier that day [BR 05]. DI Kight informed them that the username [REDACTED] was used in an online-arranged trade, where the victim had gone to a predetermined location to sell an item but instead of purchasing the item, the suspect stole it, punched him in the face, and took his money. Given that [REDACTED] first name and first initial of his last name were noted in the narrative of the complaint report (no. [REDACTED]), that the robbery took place near [REDACTED] residence, and given his notoriety to PSA 8 officers, Sgt. Noce believed that someone must have assumed [REDACTED] was the suspect. At the time, Sgt. Noce did not know that there was no further proof to connect [REDACTED] to the complaint report. Sgt. Noce did not know if there was an active arrest warrant or open I-card for [REDACTED] § 87(2)(g)

[REDACTED] While on patrol with PO Vargas, PO Vargas observed [REDACTED] walking in front of [REDACTED], so they pulled up next to the sidewalk and stepped out of their vehicle to approach him. PO Vargas called out to [REDACTED] and he immediately turned around, and put his hands out to be handcuffed. Following DI Kight's instructions, PO Vargas handcuffed [REDACTED] and escorted him to wait at the side of the van while Sgt. Noce called the 43rd Precinct Detective Unit to inform them they had [REDACTED] in custody. Sgt. Noce asked whether [REDACTED] should be brought in to the PSA 8 stationhouse for arrest processing, or to the detective squad. The detective Sgt. Noce spoke with reviewed the progress of the complaint report and informed Sgt. Noce that no further investigation had been done into the robbery, meaning a photo viewing had not yet been conducted with the victim and there was no positive identification that [REDACTED] was the suspect. Sgt. Noce called DI Kight, and they both knew the information officers possessed did not amount to probable cause to arrest [REDACTED] for the robbery; DI Kight called the 43rd Precinct Detective Squad's commander to confirm the information Sgt. Noce collected. Given the absence of a positive identification, DI Kight called back Sgt. Noce and instructed him to release [REDACTED] from custody. Immediately following, Sgt. Noce and PO Vargas returned to the PSA 8 stationhouse, where PO Vargas both drafted and voided an arrest report for [REDACTED]. Sgt. Noce had suggested they do this because [REDACTED] had been detained by them for roughly half an hour.

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(g)

- **Allegation F: Abuse of Authority – On April 20, 2016, Detective Ching Nieh entered [REDACTED] in the Bronx.**
- **Allegation G: Abuse of Authority – On April 20, 2016, Detective Ching Nieh detained [REDACTED]**

[REDACTED] alleged that on April 20, 2016, Det. Nieh, accompanied by PO Michael Scire of Brooklyn Warrant Squad, knocked on her apartment door and when she answered it, asked if [REDACTED] was home [BR 01]. At the time, [REDACTED] and [REDACTED] were home. [REDACTED] replied that [REDACTED] was home, and [REDACTED] walked up to the front door. The officers asked to come into the apartment. [REDACTED] replied that they could and allowed the officers to enter. [REDACTED] asked Det. Nieh why he was being arrested and to verify if he had an open warrant. They placed him in handcuffs but waited in the apartment to verify the open warrants, and established he had a misdemeanor warrant in regards to a missed court date. Det. Nieh took [REDACTED] to Bronx Central Booking and after a couple hours was seen by a judge and released because there was no warrant for his arrest.

Det. Nieh reopened a closed investigation against [REDACTED] under complaint [REDACTED] [BR 06]. Det. Nieh found that [REDACTED] had previously used the address [REDACTED], and found an open warrant for his brother-in-law, [REDACTED] at the same address. With I-card no. [REDACTED] for [REDACTED] and warrant no. [REDACTED] for [REDACTED] Det. Nieh went to [REDACTED] on April 20, 2016 to investigate. When Det. Nieh knocked on the door, [REDACTED] answered it. Det. Nieh explained to [REDACTED] there was a warrant for her son and [REDACTED] confirmed [REDACTED] was home. Det. Nieh [REDACTED] if he could step inside the apartment so they could speak inside the apartment, and she permitted them to. Det. Nieh showed [REDACTED] and [REDACTED] the warrant for [REDACTED] and informed him he needed to go with them to Bronx Criminal Court. Det. Nieh did not process an arrest for [REDACTED] Det. Nieh remained with [REDACTED] for two hours, until he was seen by a judge and the warrant was cleared. [REDACTED] was released on his own recognizance.

On April 20, 2016, Det. Nieh, the investigating officer for complaint [REDACTED] made a complaint follow-up entry noting the following [NYPD 19]: On April 20, 2016, at approximately 6:25 a.m., the investigating officer visited [REDACTED] in the Bronx. This location was obtained through investigative computer check on the subject's baby's mother's house and was met by brother-in-law [REDACTED] who has an open warrant. [REDACTED] informed the investigating officer that he has not seen the subject nor knows where he could be. [REDACTED] refused to tell the investigating officer any further information.

§ 87(2)(b)

New York CPL §120.80(4) permits officers to enter any premises in which he reasonably believes the subject of the arrest warrant to be present [BR 10]. Furthermore, when an officer is executing an arrest warrant, if after giving notice, he is not admitted, the officer is authorized to enter by a breaking, if necessary. New York CPL §120.80(5). See also P.G. §208-42(4) [BR 11]. U.S. v. Magluta, No. 06-16473 (11th Cir. June 5, 2008) established it is sufficient to hold that in order for law enforcement officials to enter a residence to execute an arrest warrant for a resident of the premises, the facts and circumstances within the knowledge of the law enforcement agents, when viewed in the totality, must warrant a reasonable belief that the location to be searched is the suspect's dwelling, and that the suspect is within the residence at the time of entry [BR 13]. Furthermore, an arrest warrant founded on probable cause implicitly carries with it the limited

authority to enter a dwelling in which the suspect lives when there is reason to believe the suspect is within. Payton v. New York, 445 U.S. 573, 100 S. Ct. 1371, 63 L. Ed. 2d 639 (1980) [BR 12].

§ 87(2)(g)

[REDACTED]

- § 87(4-b), § 87(2)(g) [REDACTED]

Squad: 6

Investigator:	<u>Rebecca Ho</u>	<u>07/18/2016</u>
	Signature	Date

Supervisor:	<u>Jessica Peña</u>	
	Title/Signature	Date

Reviewer:		
	Title/Signature	Date